COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services in the Commonwealth of Massachusetts	D.T.E. 01-20

AT&T'S MOTION TO COMPEL VERIZON RESPONSES TO AT&T INFORMATION REQUESTS

Introduction.

AT&T Communications of New England, Inc. ("AT&T") moves for an order compelling Verizon New England, Inc. ("Verizon") to provide complete responses to information requests ATT-VZ 12-2, 14-10, 14-11, 14-14, 14-15, and 14-32, which seek documentation of the facts supporting Verizon's Loop Cost, Switching, and Digital Circuit Models. AT&T also moves that the Department order Verizon to respond completely and accurately to the following, additional information requests: ATT-VZ 4-1, 4-3, 4-16, 4-29, 4-48, 4-49, 5-6 and 5-9. AT&T believes that the requested information will reveal errors that Verizon has made in its cost studies that systematically bias Verizon's cost estimates upward. As a result, and for the reasons described more fully below, the information sought is both "relevant" and "likely to lead to the discovery of admissible evidence."[1] In light of the fact that the Department recently ruled that this is the

[1] Order on Verizon's Appeal of Hearing Officer's August 8, 2001 Ruling on Motions to Compel, D.T.E. 01-20, August 31, 2001 ("*August 31, 2001 Order*") p.12.

"appropriate standard under which to consider [a] Motion to Compel discovery responses,"[2] Verizon should be compelled to provide the requested information in this proceeding for meaningful review by the Department and all parties.

I. VERIZON HAS REFUSED TO MAKE AVAILABLE KEY INFORMATION UPON WHICH ITS LOOP COST MODEL IS BASED, BY REFUSING TO PROVIDE DOCUMENTATION REQUESTED IN ATT-VZ 14-32.

Unlike the HAI model, Verizon's recurring cost model does not estimate outside plant costs based on the most efficient, forward-looking network that would provide service to actual customer locations. Verizon uses a much more rudimentary approach, and bases its cost estimates on the physical characteristics of its embedded network.

In particular, Verizon says that its recurring cost model is based on average loop length estimates derived from a survey of selected feeder routes by Verizon engineers, none of whom is a witness in this proceeding. The direct testimony by Verizon's recurring cost panel states that:

> The Company utilized the Loop Cost Analysis Model ("LCAM") to develop the investments and costs associated with the local loop, which is discussed below. **However, LCAM derives its loop plant characteristics from a survey of feeder route data conducted by Verizon MA's engineers.**

Verizon Direct Panel Testimony at 89 (filed May 8, 2001) (emphasis added). These "physical characteristics" for selected feeder runs are the sole basis for Verizon's estimation of average "feeder, sub-feeder and distribution length, structure and size" for the Carrier Serving Areas modeled by Verizon. *Id.* at 91. Thus, Verizon's entire loop cost model is predicated upon these engineering surveys.

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[2] Id.

AT&T requested access to the information relied upon by these unidentified engineers, in an effort to verify the accuracy of the inputs relied upon by Verizon. AT&T posed the following discovery request to Verizon:

> ATT-VZ 14-32: Provide copies of all materials (plats, network diagrams, demand forecasts, engineering guidelines, maps, etc.) (in both electronic and hard copy format) reviewed or otherwise used by the Verizon-MA engineers in conducting the survey of feeder route data.

Verizon refused to do so. Its response to ATT-VZ 14-32 reads as follows:

> Verizon MA objects to this request on the grounds that the request is overly broad and would be unduly burdensome to respond. The information requested resides at multiple Outside Plant Engineering locations and would be extremely burdensome to respond to.

AT&T followed up by asking Verizon to provide at least some of the relevant documentation, in a letter dated July 3, 2001 (*"AT&T's July 3, 2001 Letter*"). Paragraph 11 of AT&T's letter stated as follows:

> Verizon has refused to provide any of the documentation sought in ATT-VZ 14-32, which asked for documentation used by Verizon's engineers in conducting the survey of feeder route data. Verizon said that it would be "unduly burdensome" to provide all of the requested documentation, but it made no effort to define a subset of documentation that it could provide. According to Verizon's Direct Panel Testimony at page 89, the feeder lengths from which its proposed loop costs are derived are based upon "a survey of feeder route data conducted by Verizon MA's engineers." AT&T is entitled to obtain documentary evidence sufficient to permit it and the Department to test the validity of the survey results and feeder length estimates upon which Verizon bases its loop cost study. Please provide a supplemental response that provides such documentation.

A true and accurate copy of *AT&T's July 3, 2001 Letter* is attached as Exhibit 1. Verizon again refused to provide any of the inputs purportedly used in its secret survey of feeder lengths. By letter dated July 10, 2001, Verizon responded as follows:

> Verizon MA objected to the request in that it is overly broad and would be unduly burdensome to respond. Your letter requests a supplemental response that would provide the documentation. Verizon MA renews its objection because of the extraordinary breadth of the request and the burden to respond. As you indicated in your letter, the feeder lengths used in the cost study was based on a survey of feeder

> loop data conducted by Verizon MA engineers. Data that would have been reviewed and/or served as the basis of the survey responses by Verizon MA engineers, include plats, maps, diagrams, etc. of Verizon MA's outside plant. To produce such documents would require Verizon MA to go back to each of the engineers and have them reconstruct their review and knowledge of the network and identify scores of documents that may have been considered by them in responding to the survey. This undertaking would be enormous and any probative value of the results would be overwhelmed by the burden it would place on Verizon MA to respond.

In other words, Verizon has unilaterally and absolutely refused to provide access to any of the information that it purportedly used to come up with the mysterious inputs upon which Verizon's loop length and cost estimates are based. That information is relevant to the reasonableness of Verizon's estimates of loop, feeder and distribution lengths. Applying the Department's discovery standard, Verizon should be required to produce the relevant information.

II. VERIZON HAS REFUSED TO MAKE AVAILABLE KEY INFORMATION UPON WHICH ITS SWITCHING AND DIGITAL CIRCUIT MODELS ARE BASED.

Verizon has also failed to make available for public review key information upon which its EF&I, power and RTU factors are based. These factors greatly inflate Verizon's proposed switching and digital circuit costs, and thus Verizon's refusal to provide access to data that underlies key inputs constitutes a significant failure of proof by Verizon.

A. Verizon Has Withheld The Data Underlying Its EF&I Factor, Which Was Requested in ATT-VZ 14-10 and 14-11.

Verizon's digital switching and digital circuit cost models use a so-called Engineer, Furnish & Install ("EF&I") factor. Verizon states that this factor was:

> developed on the basis of the data contained within the Company's Detailed Continuing Property Record ('DCPR'). Specifically, the total installed investment for hardwired equipment installed in calendar year 1998 was added to the plug-in equipment installed in calendar year 1998. (This was the latest year for which data were available at the time that the studies were done.) The sum of the installed investments was then divided by the sum of the material-only investments of the same equipment, also derived from DCPR. This yielded the

> final EF&I factor, which represents the relationship of TCI investment to materials investment for equipment in the future based on current relationships.

Verizon's Direct Panel Testimony at 29.

In an effort to test the extent to which Verizon's historic, embedded costs reflected in its DCPR deviate from forward-looking costs calculated in accord with TELRIC, AT&T sought more information regarding that data source. In particular AT&T posed the following two discovery requests:

> ATT-VZ 14-10: Referring to page 29 of the Verizon-MA Panel testimony, provide details of the ten largest hardwired equipment installations for 1998 included in the Verizon-MA Detailed Continuing Property Records ("DCPR") database upon which forward-looking EF&I were developed.
>
> ATT-VZ 14-11: Referring to page 29 of the Verizon-MA Panel testimony, provide details of the ten largest plug-in equipment installations for 1998 included in the Verizon-MA Detailed Continuing Property Records ("DCPR") database upon which forward-looking EF&I were developed.

Verizon flatly refused to provide the requested information in response to the above discovery requests or in response to further inquiries in *AT&T's July 3, 2001 Letter* (Exhibit 1). Verizon's only response to each of these requests was the following, identical objection:

> The requested data is not readily available. A burdensome special study would be required to develop this data.

In sum, Verizon has refused to make available for review by the Department and the parties underlying information needed to verify the suitability of the actual data used by Verizon to create its EF&I factors. Verizon chose to base its cost model on this data. It should therefore be required to provide relevant or potentially relevant information about that data, as requested.

B. Verizon Has Similarly Withheld The Data Underlying Its Power Factor, Requested in ATT-VZ 14-14 and 14-15.

Verizon's digital switching and digital circuit cost estimates are also based on a so-called power factor. *See* Verizon's Direct Panel Testimony at 32. Verizon describes the derivation of this factor as follows:

> The factors were developed on the basis of the data contained within the DCPR database. The installed investment of power equipment placed in 1998 was identified by the type of equipment it is supporting. Next, the total installed investment for hardwired central office equipment installed in calendar year 1998 was added to the central office plug-in equipment installed in calendar year 1998. The sum of the installed central office investments was then divided into the installed investment of power equipment to yield the relevant power factors.

Id. at 33. In an effort to test the suitability of this calculation for present purposes, AT&T posed the following two discovery requests:

> ATT-VZ 14-14: Referring to page 33 of the Verizon-MA Panel testimony, provide details of the ten largest hardwired equipment installations for 1998 included in the Verizon-MA Detailed Continuing Property Records ("DCPR") database upon which forward-looking power factors were developed.
>
> ATT-VZ 14-15: Referring to page 33 of the Verizon-MA Panel testimony, provide details of the ten largest plug-in equipment installations for 1998 included in the Verizon-MA Detailed Continuing Property Records ("DCPR") database upon which forward-looking power factors were developed.

Once again, Verizon flatly refused to provide the requested information, instead supplying only the same objection:

> The requested data is not readily available. A burdensome special study would be required to develop this data.

Once again, the further inquiries posed in *AT&T's July 3, 2001 Letter* did not yield any additional information. See Exhibit 1. In sum, Verizon has refused to make available for review by the Department and the parties underlying information needed to verify the suitability of the very data used by Verizon to create its power factors. This is improper.

C. Verizon Has Also Withheld The Data Underlying Its Right To Use Factors, Requested in ATT-VZ 12-2.

In Workpaper Part G-9, of its Cost Study, Verizon estimates the Right To Use ("RTU") Factor. That workpaper presents a series of calculations from which Verizon derives three separate forecasted RTU Factors. In ATT-VZ 12-2, AT&T asked for an explanation of the process by which the estimates for these three factors were derived and for,

> . . . the details of the quantifications of the forecast, including all documentation and calculations used by the organizations providing input and the organization responsible for developing the forecast.

Verizon refused, however, to provide any of the data underlying its forecast. In its response to ATT-VZ 12-2, Verizon attached no documents, stating that:

> Multiple organizations beyond Network Engineering and Network Planning have input to this process. Verizon MA objects to producing "all documentation and calculations used by these organizations" because it would be overly burdensome to try to compile such data.

Verizon's response is incomplete and wholly inadequate. AT&T asked for details of quantification, calculations, and the identity of the "multiple organizations" with input in making those calculations. Verizon did not provide any documentation in support of its RTU factors or even the identities of the "multiple organizations."

The Department's criterion for allowing a motion to compel is relevance. Documentation for the method by which a number or numbers are derived is relevant to the reasonableness of the number. A response should be compelled.

III. VERIZON HAS REFUSED TO PROVIDE A WIDE RANGE OF INFORMATION RELEVANT TO ITS ESTIMATION OF COSTS.

A. Verizon's Use of Alternative Line Forecasts, Requested in ATT-VZ 4-29, is Relevant To The Reasonableness of The Line Forecast It Uses In Verizon's Cost Study.

In ATT-VZ 4-29, AT&T sought access line forecasts and CCS growth trends used by the marketing, engineering, or strategic planning organizations of Verizon, if different from such forecasts and trends used in Verizon's cost model. Although Verizon provided information regarding the basis for the particular line forecast that it made for the purposes of its cost study and that underlies the line inputs it has used in the SCIS model, Verizon failed to provide alternative line forecasts used elsewhere in its organization. In light of that failure, AT&T sent *AT&T's July 3, 2001 Letter* seeking the alternative line forecasts. See Exhibit 1. Again, Verizon failed to supply this information.

In its *August 31, 2001 Order*, the Department determined a party's network and operational practices may be relevant to, or likely to lead to admissible evidence regarding, the reasonableness of the network and operational cost estimates in its Cost Study. *Id*. at 12. On this basis, the Department ordered AT&T to provide information regarding its own network and practices. Similarly, the Department should order Verizon to provide the requested information regarding Verizon's operational practices because they are relevant to the reasonableness of assumptions that Verizon makes in its cost study regarding those practices.

B. Verizon Has Failed To Provide Documentation That Supports Its Investment Costs For Modems And Application Processors, as Requested in ATT-VZ 4-3.

In ATT-VZ 4-3, AT&T sought "supporting documents for all investments or inputs in Part C of the cost study that were sourced to Vendor (*e.g.*, Workpaper Part C-1, Section 37, Page 1 of 2, Line 1 regarding "modem" and Line 2 regarding "application processor")." Verizon's

response included only a spreadsheet showing the *development* of its cost estimates, *i.e.*, its calculations for manipulating the raw data; it did not include the documentation for any investment. AT&T reiterated its request for this documentation in a letter dated June 1, 2001 ("*AT&T's June 1, 2001 Letter*"). Verizon did not produce this evidence. A true and accurate copy of *AT&T's June 1, 2001 Letter* is attached as Exhibit 2. The invoices and other documentary evidence of these vendor costs are relevant to the vendor cost estimates that Verizon uses in its study. The Department should order Verizon to produce them.

C. Verizon Has Failed To Provide The Data Upon Which It Relies To Estimate Its Engineer, Furnish & Install ("EF&I") Factor For Digital Switches, as Requested in ATT-VZ 4-16.

In ATT-VZ 4-16, AT&T sought

> all data from the Detailed Continuing Property Record ("DCPR") that was relied upon to develop the Engineer, Furnish & Install ("EF&I") factor for digital switches, and either describe or explain such DCPR data in sufficient detail that it can be understood. *See* Verizon's direct panel testimony at pages 28-29.

Verizon's response consisted of a workpaper displaying the development of the Engineer, Furnish & Install ("EF&I") factor for Digital Switch account 2212 (Attachment 1 of the response) and a summary of the DCPR data (Attachment 2 of the response).

Verizon's response to ATT-VZ 4-16 is incomplete. The question specifically asked for the DCPR data and an explanation of the data. Verizon's answer only provided a summary of the 2212 account. Verizon did not provide the requested detailed DCPR records that underlie that summary either in response to ATT-VZ 4-16 or in response to inquiries contained in *AT&T's June 1, 2001 Letter* (Exhibit 2). The detailed DCPR records are relevant to the accuracy of a summary that is based on those records. The Department should compel Verizon to provide the requested records.

D. Verizon Has Failed To Provide The Information And Analysis Upon Which It Relies To Estimate Monthly Intercom Costs Per Channel, as Requested in ATT-VZ 4-1.

In Workpaper Part C-1, Section 29, Page 1 of 1, of its Cost Study, Verizon estimates the monthly intercom costs per channel. That workpaper presents a series of calculations. Those calculations are predicated on an assumed 12.0 BH intragroup CCS per Channel. The only basis Verizon gave for its assumed number of 12.0 was the two-word term "Product Management." In ATT-VZ 4-1, AT&T asked for supporting documents and explanations for inputs relying on "Product Management." Verizon's response was:

> The inputs for studies in C-1, where the source has been identified as Product Management, are based upon the opinion of the respective product manager. There is no additional supporting documentation available.

Verizon's response is incomplete and wholly inadequate. AT&T asked for an explanation and documentation first in ATT-VZ 4-1 and again in *AT&T's June 1, 2001 Letter* (Exhibit 2). Verizon did not provide any explanation for how an unidentified individual, whose training and experience are completely unknown to anyone other than Verizon, came up with the number 12.0. Moreover, it defies credibility to claim that there is no documentation for such an estimate. The unidentified individual who came up with the 12.0 number must certainly have relied on some documentation or have some record of experience in the relevant organization.

The Department's criterion for allowing a motion to compel is relevance. The method by which an unidentified individual comes up with a number is relevant to the reasonableness of the number for the purpose for which it is being used. A response should be compelled.

E. Verizon Has Failed To Provide The Information And Analysis Upon Which It Relies To Estimate The Busy Hour to Annual Conversion Factor, as Requested in ATT-VZ 4-48.

In Workpaper Part C-3, Section 7, Page 1 of 1, of its Cost Study, Verizon estimates the Busy Hour to Annual Conversion Factor. That workpaper presents a series of calculations. Those calculations are predicated on an assumed ratio of .083 for "Busy Hour (BH) to All Hours of Day (AHD)." The only basis Verizon gave in its Workpaper for its assumed ratio of .083 was the two-word term "Service Costs." In ATT-VZ 4-48, AT&T asked for supporting documentation. Verizon's response was:

> The development of the busy hour to any hour of the day conversion factor can be found in Part C-3, Workpaper Section 7, Page 1.

Verizon's response is incomplete and wholly inadequate. AT&T asked for documentation. Verizon did not provide any documentation for its method for coming up with the .083 ratio. Verizon also refused to provide this documentation in response to *AT&T's June 1, 2001 Letter* (Exhibit 2).

The Department's criterion for allowing a motion to compel is relevance. Documentation for the method by which a number is derived is relevant to the reasonableness of the number. A response should be compelled.

F. Verizon Has Failed To Provide The Information And Analysis Upon Which It Relies To Estimate The Nonconversation Time Factor, as Requested in ATT-VZ 4-49.

In Workpaper Part C-3, Section 6, Page 1 of 1, of its Cost Study, Verizon estimates the NCT Adjustment Factor. That workpaper presents a series of calculations. Those calculations are predicated on several assumed numbers for certain critical inputs. The bases for the assumed numbers are given simply as three-word terms without explanation or documentary support. The inputs and sources are:

Average BH CCS per Main Station – Analogue Lines	SCIS Input Statistics
Average BH Calls per Main Station – Analog Lines	SCIS Input Statistics
Average BH CCS per Main Station – Digital Lines	SCIS Input Statistics
Average BH Calls per Main Station – Digital Lines	SCIS Input Statistics
Number of Analogue Lines	SCIS Input Statistics
Number of Digital Lines	SCIS Input Statistics
NCT Per Attempt	Call Setup Analysis
Completion Ratio	Call Setup Analysis

In ATT-VZ 4-49, AT&T asked for supporting documentation. Verizon's response was:

> The development of the non conversation time factor can be found in Part C-3, Workpaper Section 6, Page 1.

Verizon's response is incomplete and wholly inadequate. AT&T asked for documentation a second time in *AT&T's June 1, 2001 Letter* (Exhibit 2). Verizon did not provide any documentation for its method for coming up with the eight inputs identified above. There must be such documentation. There is documentation for the SCIS Input Statistics. Moreover, unless Verizon created and analyzed data as part of its "Call Setup Analysis," that "analysis" would be entirely without foundation and of questionable value. If Verizon *did* create and analyze data for this purpose, that data should be available for review and should be produced.

The Department's criterion for allowing a motion to compel is relevance. Documentation for the method by which a number is derived is relevant to the reasonableness of the number. A response should be compelled.

G. Verizon Has Failed To Provide The Information And Analysis Upon Which It Relies To Estimate Installation Cost Factors For DC Power Installation Jobs, as Requested in ATT-VZ 5-6.

In Part CA Exhibit Page 1 of 2, Part CA Workpaper 5.0, and Part CA Workpaper 17.0 of the Collocation Cost Study, Verizon develops and relies on an installation cost factor for DC power installation jobs. *See, e.g.*, Part CA Workpaper 5.0, Page 1 of 2, Line 29; and Part CA Workpaper 17.0, Page 1 of 1, line 10. Those workpapers present a series of calculations. Those calculations are predicated on a "Digital Switch Power Installation Factor – 377C" of 2.7852. The only basis Verizon gave in its cost study for its number of 2.7852 was the one-word term "VCOST." In ATT-VZ 5-6, AT&T asked for

> supporting documentation to substantiate the power installation factor used in the DC Power Consumption cost study. Include actual invoices from vendors to substantiate the labor costs necessary to install each of the DC Power Plant components included in the Verizon cost study

In its response, Verizon referred to its response to WCom 2-8. That response, however, merely presents another series of calculations. Those calculations are predicated on a summary of claimed, but unsupported, "material cost" and "in-place cost." No invoice or other documentation verifying the accuracy of the material or installation costs was provided.

Verizon's response is incomplete and wholly inadequate. AT&T asked for invoices. Verizon did not provide them.

The Department's criterion for allowing a motion to compel is relevance. The invoices that verify the accuracy of summary numbers is relevant to the accuracy of those numbers. A response should be compelled.

H. Verizon's Engineering Guidelines For The Deployment Of Battery Distribution Fuse Bays In Its Central Offices, as Requested in ATT-VZ 5-9, Is Relevant To The Reasonableness of The Deployment Assumptions It Uses In Its Cost Study.

In ATT-VZ 5-9, AT&T sought

> the engineering guideline (Bell System Practice or similar document) that outlines how Verizon is to engineer the deployment of Battery Distribution Fuse Bays in its central offices. This should include, but not be limited to specifically noting the distance between the Battery Distribution Fuse Bays and the telecommunications equipment they serve.

Verizon response directed the reader to ATT-VZ 5-21, Attachment 2. Since ATT-VZ 5-21 does not exist, it is presumed that Verizon intended ATT-VZ 5-12. Verizon, however, did not provide the requested guidelines in response to ATT-VZ 5-12.

In its *August 31, 2001 Order*, the Department determined a party's network and operational practices may be relevant to, or likely to lead to admissible evidence regarding, the reasonableness of the network and operational cost estimates in its Cost Study. *Id*. at 12. On this basis, the Department ordered AT&T to provide information regarding its own network and practices. In the instance at hand, Verizon's cabling length assumptions in its cost study are significantly greater than the cable lengths that Verizon's uses in practice. *See*, Rebuttal Testimony Of Steven E. Turner On Behalf Of AT&T And WorldCom, p. 50, n. 40, filed on July 18, 2001, in this docket. Under the requirements of the *August 31, 2001 Order*, the Department should, therefore, order Verizon to provide the requested information regarding Verizon's operational practices because they are relevant to the reasonableness of assumptions that Verizon makes in its cost study regarding those practices.

Conclusion.

Verizon's sparse response to AT&T's request for details of the data underlying its Loop Cost, Switching, Digital Circuit, and Collocation Cost Models is wholly inadequate in light of

the obvious relevance of the facts sought and the Department's recently articulated "broad discovery standard." *August 31 Order at 12.* Moreover, AT&T's requests for a wide range of underlying data and documentation supporting Verizon's cost estimates are, by definition, relevant to the accuracy and reasonableness of such cost estimates. Finally, AT&T's requests for information regarding Verizon's current network and operational experiences are relevant to the reasonableness of the assumptions that Verizon makes in its cost studies regarding the same network and operational issues. AT&T respectfully requests that the Department order Verizon to provide complete discovery responses.

AT&T COMMUNICATIONS OF NEW ENGLAND INC.

Respectfully submitted,

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